

REMARKS

A. The Status of the Claims and the Amendments

By the present amendment, claim 17 has been amended to more particularly define the Applicants' invention and to claim it with greater specificity. Claims 11 and 14-16 reciting targeting ligands other than those comprising a peptide having the sequence CRGDC, wherein the two cysteines are linked together via a disulfide linkage, have been canceled without prejudice. The amendment to claim 17 is supported by the specification and the original claims. No new matter have been added.

After the present amendment has been entered, claims 3, 4, 6-10, 12, 13, 17, 22-35, 61, and 63-81 will be pending, of which claims 12 and 13 were previously withdrawn from consideration as directed to non-elected species. Claims 1, 2, 5, 18-21, 36-60, and 62 were canceled previously, and claims 66-81 have been allowed. It is submitted that the amendments place the claims in condition for allowance. Entry of the amendments is respectfully requested.

B. Rejection Under 35 U.S.C. § 103(a)

Claims 3, 4, 6-11, 14-17, 22-35, 61 and 63-65 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the published PCT patent application WO 96/40285 (Unger et al.). This rejection is respectfully traversed on the following grounds.

The standard that has to be satisfied for making a valid prima facie case of obviousness was discussed in the response to a previous Office Action (see the paper filed February 8, 2006, page 14, last paragraph). The Applicants respectfully submit that the above criteria have not been met with regard to claim 17, as amended, and that the rejection is moot with regard to claims 11 and 14-16 in view of cancellation thereof.

Specifically, claim 17, as amended, now recites a targeting ligand

“comprising a peptide having the sequence
CRGDC, wherein the two cysteines are linked
together via a disulfide linkage.”

Unger et al. fail to describe or suggest such a limitation. All that is disclosed or suggested by Unger et al. with regard to targeting ligands (marked by Unger et al. as “Q”) is that the ligand Q can be a peptide, among other options (see, page 63, lines 13-16). If Q is a peptide, Unger teaches to use either the peptide Lys-Gln-Ala-Gly-Asp-Val or a cyclic peptide such as DMP 728 (see, page 63, line 17).

Accordingly, there is nothing in Unger et al. that would motivate those skilled in the art to make targeted vesicle compositions having liposomes that would include a targeting ligand comprising a cysteine-containing peptide. Moreover, Unger et al. have clearly stated that the use of the peptide Lys-Gln-Ala-Gly-Asp-Val or a cyclic peptide such as DMP 728 is a preferable peptide (see, page 63, line 16), thus teaching away from using other peptides, including those containing cysteine.

Finally, the Examiner has conceded that the compositions containing the compounds where $R^7 = -CH_2-CH_2-$, $X_2 = C(=O)$, $P = PEG-3400$ and $T = CRGDC$ peptide are allowable over prior art (see, Office Action, page 11, last four lines 1-2). The Applicants agree and respectfully point out that the conclusion of allowability applies to a composition having any of such R^7 , X_2 , P or T .

In view of the foregoing, claim 17 is considered non-obvious in view of, and patentably distinguishable over, Unger et al. Each of claims 3, 4, 6-10, 22-35, 61 and 63-65 directly or indirectly depends on claim 17, and is patentably allowable for at least the same reason. Claims 11 and 14-16 and the rejection with respect to these claims has become moot. Reconsideration and withdrawal of the rejection of claims under 35 U.S.C. §103(a) are, therefore, respectfully requested.

In re Application of:
Unger et al.
Application No. 09/699,679
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Attorney Docket No.: IMARX1280

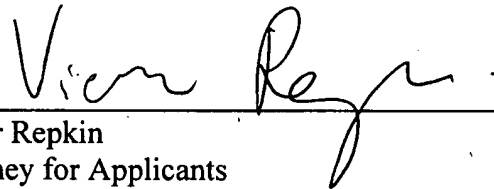
CONCLUSION

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved, the Examiner is requested to contact the undersigned at the telephone number given below so that a prompt disposition of this application can be achieved.

No fee is deemed to be due in connection with this response. However, if any fee is due, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A duplicate copy of the Transmittal Sheet is enclosed.

Respectfully submitted,

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Victor Repkin
Attorney for Applicants
Registration No. 45,039
Telephone: (858) 638-6664
Facsimile: (858) 677-1465

DLA PIPER US LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133
USPTO Customer Number 28213